



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

KELVIN DERRICK,
Complainant,

and

CATBAG, INC.,
Respondent.

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)CHARGE NO(S): 2000 CF 3018

)EEOC NO (S): 21 BA 02430

)ALS NO(S): 11810

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RECOMMENDED ORDER AND DECISION

This matter is before me on Respondent's oral motion to dismiss this matter for Complainant's failure to prosecute his Complaint.

Findings of Fact

1. Complainant filed a Charge with the Illinois Department of Human Rights (Department) on December 5, 2000, alleging that Respondent violated the Illinois Human Rights Act, 775 ILCS 5/1-101 et.seq., when it discharged him in retaliation for having filed a previous Charge of discrimination with the Department on June 29, 2000.
2. The previous Charge referred to is Charge No. 2000 CF 3018, ALS # 11786 (companion case).
3. The Department filed a Complaint on behalf of the Complainant with the Illinois Human Rights Commission (Commission) on June 24, 2002.
4. Respondent filed a verified answer to the Complaint on July 26, 2002.
5. On August 13, 2002, Respondent appeared through counsel for initial status on this case and the companion case; Complainant did not appear.
6. An order was entered continuing the matter until September 10, 2002. The order warned that I would entertain an oral motion to dismiss for want of prosecution if Complainant failed to appear for the September 10, 2002 hearing.
7. On September 10, 2002, Respondent appeared; Complainant did not appear. An order was entered setting a status for September 25, 2002 and again warning Complainant that failure to attend would result in consideration of an oral motion to dismiss.
8. On September 18, 2002, Respondent filed proof of service upon the Complainant of the September 10, 2002 and August 13, 2002 orders.
9. On September 25, 2002 Respondent appeared; Complainant did not appear. Respondent made an oral motion to dismiss this matter for want of prosecution and I granted it.

Conclusion of law

The failure of Complainant to appear at three consecutive scheduled status hearings or to request continuances in advance has resulted in unreasonable delay, justifying dismissal of this Complaint with prejudice.

Discussion

Section 5300.750(e) of the Procedural Rules of the Illinois Human Rights Commission authorizes a recommendation for dismissal with prejudice where a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance, or unreasonably refuses to comply with any Order entered, or otherwise engages in conduct which unreasonably delays or protracts the proceedings. Similarly, 775 ILCS 5/8A-102(l)(6) authorizes a recommended order of dismissal, with prejudice, or of default as a sanction for a party's failure to prosecute her case, appear at a hearing, or otherwise comply with this Act, the rules of the Commission, or a previous Order of the Administrative Law Judge.

The record indicates that Complainant did not appear for the initial status hearing on August 13, 2002 and subsequently failed to appear for consecutive scheduled status hearings on September 10, 2002 and September 25, 2002. Complainant was warned in the August 13, 2002 order that his failure to appear for the September 10, 2002 hearing may result in an order to dismiss. Complainant was further warned in the September 10, 2002 order that his failure to appear September 25, 2002 may result in an order to dismiss. However, despite these warnings, Complainant has failed to appear. Further, Complainant has filed no pleadings and has taken no action whatsoever to indicate his interest in pursuing this matter.

As Complainant has taken no steps to indicate his desire to pursue this matter, I can take no other action in this case except to dismiss the Complaint.

Recommendation

Therefore, I recommend that this Complaint and the underlying Charge be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
SABRINA M. PATCH
Administrative Law Judge
Administrative Law Section

ENTERED: October 2, 2002

